

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

HUY CHI LUONG,

Defendant.

Case No. [96-cr-00094-JSW-2](#)

**ORDER TO SHOW CAUSE AND
INSTRUCTIONS TO CLERK RE
SERVICE**

Re: Dkt. No. 2258

On June 22, 2016, Hui Chi Luong (“Movant”), through counsel, filed a second or successive motion to vacate his sentence under 28 U.S.C. section 2255. On January 30, 2017, the United States Court of Appeals for the Ninth Circuit granted his application to proceed with a second or successive motion to vacate. Movant seeks to vacate his sentence on the ground that his sentence has been rendered invalid by the Supreme Court’s holding in *Johnson v. United States*, ___ U.S. ___, 135 S.Ct. 2551 (2015). This *Johnson* claim appears colorable under 28 U.S.C. § 2255 and merits an answer from the Government.

The Ninth Circuit stated that the motion would be deemed filed as of May 25, 2016. In general, this Court has required the Government to file an opposition within 75 days after the Section 2255 motion was filed. That date has now passed. Accordingly, the following deadlines will apply, unless the parties submit a stipulation and proposed order for a modified briefing schedule: (1) within 45 days of the date of this Order to Show Cause, the Government shall file an opposition conforming in all respects to Rule 5 of the Rules Governing Section 2255 Proceedings, showing cause why the Court should not “vacate, set aside or correct the sentence” being served by Movant; (2) Movant shall file a reply brief 30 days after the opposition is filed.

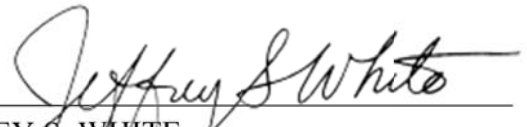
Thereafter, the matter will be deemed submitted on the papers, unless the Court orders

1 otherwise.

2 It is FURTHER ORDERED that, in addition to electronic filing on the United States
3 Attorneys' Office, the Clerk shall serve a copy of this Order on AUSA J. Douglas Wilson.

4 **IT IS SO ORDERED.**

5 Dated: February 1, 2017

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8 JEFFREY S. WHITE
9 United States District Judge
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